IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

OP.No. 6257 of 2000(T)

PETITIONER:

CHEMBRA ESTATE, MEPPADI P.O., WYNAD DISTRICT, REP. BY THE MANAGER, MATHEW GEORGE, AGED 45 YEARS, S/O. T.M. GEORGE, RESIDING AT KOTTAPPADY DESOM, VYTHIRI TALUK.

BY ADV. SRI.K.P.SREEKUMAR
SRI.S.GOPINATHAN

RESPONDENTS:

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1. THE CONTROLLING AUTHORITY, (DISTRICT LABOUR OFFICER) WYNAD.

2. J. DEVASSY, P.F.NO. KR. 235/2098, CHEMBRA ESTATE, ERUMAKKOLLI, MEPPADI.

BY GOVERNMENT PLEADER SRI. NOBLE MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ORDER IN A.S.624/97 PASSED BY HIGH COURT OF JUDICATURE, BOMBAY DT. 12-8-1997.

EXT.P2 WRITTEN STATEMENT DT. 22-7-1999.

EXT.P3 ORDER IN G.C.31/98 DT. 10-11-1999.

[TRUE COPY]

P.S TO JUDGE.

S. Siri Jagan, J.

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O.P. No. 6257 of 2000

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Dated this, the 31st January, 2007.

J U D G M E N T

The petitioner is an estate, which is under the administration of a Receiver appointed by the High Court of Judicature at Bombay in a suit filed by the Bank of Tokyo-Mitsubishi Ltd. against the estate. The 2nd respondent, a retired workman of the estate, filed an application for payment of gratuity before the 1st respondent-controlling authority against the petitioner. In that case, the petitioner took the contention that unless the 2nd respondent impleads the Receiver appointed by the High Court of Bombay in the gratuity case representing the estate, the gratuity claim is not maintainable. They also applied for impleading the Receiver as a party to the gratuity case. However, by Ext. P3 order, the controlling authority rejected the contention of the petitioner and dismissed the application to implead the Receiver. The said order is under challenge in this original petition.

2. Admittedly, the estate is under the receivership of the Receiver appointed by the High Court of Judicature at Bombay. That being so, the petitioner herein is not competent to file this original petition at all, even going by the contentions of the petitioner. The only thing the petitioner could have done is to get the Receiver himself to file an application for impleading. In any event, if the ultimate order to be passed by the controlling authority can only be executed against the Receiver, the petitioner may not be aggrieved at all.

In the above circumstances, I do not find any merit in this original petition and accordingly the same is dismissed.

Sd/- S. Siri Jagan, Judge.

Tds/